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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,520	07/20/2001	Samuel Farchione	FSP-10002/08	2097

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EXAMINER

HARRIS, CHANDA L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/910,520	<b>Applicant(s)</b> FARCHIONE, SAMUEL	
	<b>Examiner</b> Chanda L. Harris	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

In response to the Amendment filed on 4/14/04, Claims 1-26 are pending.

### ***Claim Objections***

Claims 8 and 9 are objected to because of the following informalities:

- Claim 8: "and colorimeter" should be -- a colorimeter --.
- Claim 9: "comprises spectrophotometer" should be -- comprises a spectrophotometer --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5, 8-16, 18-22, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsch et al. (US 5,643,341) in view of MacFarlane et al. (US 5,311,293)**

1. [Claims 1, 8-13, 15-16, 18-22, 24-26]: Regarding Claims 1, 8-13, 15-16, 18-22, and 24-26, Hirsch discloses providing a style database (i.e., database information chart)

Art Unit: 3714

including complimentary fashion information having cosmetic data (i.e., colored shampoos) and physical characteristic data (i.e., hair color and tones). See Abstract. Hirsch discloses communicating physical characteristic data for at least two physical characteristics (i.e., hair tone and the natural or cosmetically altered color of the hair). See Col.6: 13-21. Hirsch discloses comparing said physical characteristic data for said individual with said style database to identify a selection of cosmetics or fashion selections (i.e., proper combination (and quantities) of differing basic colored shampoos) that are appropriate for said individual based upon the at least two physical characteristics and identifying for said individual a selection of cosmetics that are appropriate for the individual based upon the at least two physical characteristics. See Col.6: 13-21.

Hirsch does not disclose expressly providing a personal characteristic database (e.g., memory) being adapted to receive physical characteristic data for at least one individual, communicating from an input device (e.g., color-measuring device) to the personal characteristic database, wherein said input device comprises a colorimeter, wherein said input device comprises a spectrophotometer, wherein said input device comprises a computer (i.e., CPU), wherein said style database further comprises footwear information (i.e., non-skin matter), wherein said style database further comprises clothing information (e.g., fabric), and wherein said clothing information includes clothing data selected from a group consisting of: size data, style data, fabric color data (i.e., fabric color) and fabric texture data. However, MacFarlane teaches such in FIG.1, Col.2: 47-63, Col.5: 33-41 and the Abstract. Moreover, MacFarlane's

Art Unit: 3714

invention is capable of having a database that comprises footwear information, clothing information, and wherein clothing information includes clothing data selected from a group consisting of: size data, style data, fabric color data and fabric texture data. See Col.4: 4-8. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a personal characteristic database being adapted to receive physical characteristic data for at least one individual, communicating from an input device to the personal characteristic database, a colorimeter, a spectrophotometer, a computer, footwear information, clothing information, and clothing information that includes clothing data selected from a group consisting of: size data, style data, fabric color data and fabric texture data into the method and system of Hirsch, in light of the teaching of MacFarlane, in order to provide a modern version of color-measuring instruments for use in determining color compatibility.

2. [Claim 2]: Regarding Claim 2, Hirsch discloses wherein the style database further comprises instructional data concerning the proper application of cosmetics (i.e., proper combination (and quantities) of differing basic colored shampoos). See Col.6: 13-21.

3. [Claims 3-4]: Regarding Claims 3 and 4, Hirsch/MacFarlane does not disclose expressly wherein said instructional data comprises a multimedia presentation or a video presentation. However, it is old and well known in the art to use multimedia and video as instructional data. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate multimedia and video into the method and system of Hirsch/MacFarlane, in order to facilitate learning.

4. [Claim 5]: Regarding Claim 5, Hirsch discloses wherein said cosmetic data comprises at least one cosmetic characteristics selected from a group consisting of: cosmetic brand, cosmetic style, colors (i.e., colored shampoos), textures, qualities or chemical qualities. See Abstract.

5. [Claim 14]: Regarding Claim 14, Hirsch/MacFarlane does not disclose expressly wherein said personal characteristic database is accessible via a computer network. However, having databases accessible via a computer network is old and well known in the art. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a database that is accessible via a computer network into the method and system of Hirsch/MacFarlane in order to enable remote access to the databases.

**Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsch/MacFarlane as applied to claim 1 above, and further in view of Fabbri et al. (US 4,561,850).**

[Claims 6,17]: Regarding Claims 6 and 17, Hirsch/MacFarlane does not disclose expressly two physical characteristics selected from a group consisting of: skin color, skin tone, hair color, eye color, facial shape, body proportions, body measurements. However, Fabbri teaches two characteristics selected from skin tone and the color of the user's eyes. See Col.1: 59-64. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate two physical characteristics selected from the aforementioned groups into the method and system of

Hirsch/MacFarlane, in light of the teaching of Fabbri, in order to facilitate the selection of colors for personal grooming.

**Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsch/MacFarlane as applied to claim 1 above, and further in view of Rifkin et al. (US 6,065,969).**

[Claim 7]: Regarding Claims 7 and 23, Hirsch/MacFarlane does not disclose expressly wherein said input device comprises a digital camera or camera. However, Rifkin teaches such in Col.3: 58-64. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a digital camera into the method and system of Hirsch/MacFarlane, in light of the teaching of Rifkin, in order to communicate a digitized picture.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. See rejection above. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Chanda L. Harris*  
Chanda L. Harris  
Examiner  
Art Unit 3714

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